

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

The amendment rescinds subrule 61.7(2), which pertains to beach use and swimming, and adopts a new subrule in order to restructure the content to include a new subparagraph. The new subparagraph contains a provision to allow persons to register at a park to swim outside the designated swim area from sunrise to sunset. The new subparagraph also provides conditions the swimmer must follow for visibility purposes. Those conditions include that the swimmer must be accompanied by a person in a vessel at all times and that the swimmer must stay within 20 feet of the vessel at all times. In addition, the vessel must display a 12-inch-square, bright orange flag which can be seen all around the horizon. These changes are a result of a petition for rule making received from a triathlete who requested a change to allow triathletes the opportunity to train in state park and recreation area lakes outside the designated swim area.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 7499B** on January 14, 2009. A public hearing was held at the Wickiup Hills Outdoor Learning Center on February 3, 2009, and a public hearing was held at the Wallace State Office Building on February 4, 2009. No comments were received at the public hearings or otherwise. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code sections 461A.35 and 461A.44.

This amendment will become effective May 13, 2009.

The following amendment is adopted.

Rescind subrule 61.7(2) and adopt the following **new** subrule in lieu thereof:

61.7(2) Beach use/swimming.

a. Except as provided in paragraphs "*b*" and "*c*" of this subrule, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.

b. Persons may scuba dive in areas other than the designated beach area provided they display the diver's flag as specified in rule 571—41.10(462A).

c. Swimming outside beach area.

(1) Persons may swim outside the beach area under the following conditions:

1. Swimming must take place between sunrise and sunset;

2. The swimmer must be accompanied by a person operating a vessel and must stay within 20 feet of the vessel at all times during the swim;

3. The vessel accompanying the swimmer must display a flag, which is at least 12-inches square, is bright orange, and is visible all around the horizon; and

4. The person swimming pursuant to this subparagraph must register with the park staff in charge of the area and sign a registration immediately prior to the swim.

(2) Unless swimming is otherwise posted as prohibited or limited to the designated beach area, a person may also swim outside the beach area provided that the person swims within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach. Any vessel, except one being uprighted, must be attended at all times by at least one person remaining on board.

(3) A passenger on a sailboat or other vessel may enter the water to upright or repair the vessel and must remain within ten feet of that vessel.

d. The provisions of paragraph “*a*” of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/09.